

## The Federal Trade Commission and Health

THE PRIVATELY FUNDED National Health Council recently published a special report on "The Federal Trade Commission and Health" which gives an account of some of the actions of the Federal Trade Commission (FTC) during the last year or two. These are of the greatest concern to physicians, to other professionals and in the long run to the public as well. The FTC actions do nothing less than strike at the heart of the role of the professions in American society. The FTC appears to view the professions as trades which are to be regulated by the rules of the marketplace. For medicine this gets down to whether the standards—which really means the quality—of professional education and professional practice is a primary responsibility of the profession as it has been considered up to now, or whether these should reflect the free competition and the trade practices of the marketplace. The other professions against whom the FTC has been taking similar actions are similarly threatened.

What is at issue is nothing less than what is to be the function of the professions in the complex interdependent technologic society that America has become. Is there a need, or is it desirable, for segments of society to develop special knowledge, skills and expertise in certain subject matter (which we know as professional disciplines) which are necessary for the orderly conduct of society, but which may be beyond the interest or understanding of every citizen? And if this is the case, should these segments of society (which we know as the professions) have some control over the content and practice of their special disciplines or should this be governed entirely by the rules of the relatively uninformed free market? It seems unlikely that the FTC has addressed these fundamental questions, or even considered what might be the long-range social impact of the course upon which it has evidently embarked. There certainly has been no open discussion of the possible or likely far-reaching consequences of which we are aware.

The FTC is an independent federal regulatory commission created in 1914 to protect consumers

and businessmen from unfair competition and unfair trade practices. Its legal powers include administrative, legislative and judicial authority. It can make its own investigations, issue its own orders which have the force of law, enforce its own orders, conduct its own litigation and represent itself in court. It has its own administrative judges who pass on disputes. One can appeal an FTC action outside its system only after one has been through the cumbersome legal machinery of the system itself, which can take years and for many be a prohibitively costly process as some professional associations have already discovered—and having found it out, have capitulated to FTC pressure. In recent years the FTC hand has been greatly strengthened by a number of Supreme Court decisions and by increasing support from Congress. There is good reason to believe that it is now beginning to respond to the increased consumer activism of the times, in this case consumer activism in the health field.

It is easy enough to see how health and health services would seem to be a natural target for a revitalized FTC. The portion of the Gross National Product consumed for health services is large and continues to grow. The inflation rate for health and medical care is significantly greater than that for the economy as a whole, at least raising the question of artificial constraints operating to raise prices. Many characteristics of the system appear to be disproportionately controlled or influenced by relatively few participants, and the system is so structured that cost consciousness seems relatively nonexistent. In short, the controls inherent in a competitive, knowledgeable free market system do not appear to operate, and it is little wonder that the FTC might see it as within its mission to try to correct this situation. And indeed this seems to be the case. The approach has been to concentrate on restrictions on advertising of health products and services (prescription drugs, physicians' services, eye glasses and the like); alleged price fixing (relative value studies, for example); health manpower practices (including accreditation of medical schools); restrictions on the scope of practice of allied professionals; competitive restrictions (including acts or practices that allegedly inhibit development of health maintenance organizations or other alternatives to the fee for service model); and deceptive advertising (including a recent action against egg producers who made a deceptive health claim). From present indications FTC activity in the field of health seems likely not only

to continue, but probably will increase and be buttressed by actions from the Antitrust Division of the Department of Justice.

So once again it appears that medicine and health become the crucible in which social policy for the future is formed. It is easy enough to dismiss all of this simply as harassment, as one more undeserved and malicious attack upon medicine, or as a further expression of antiprofessionalism and anti-intellectualism in our egalitarian society—or even as a federal agency simply doing what it was created to do. But it is more than these. It is yet another rather simplistic approach to solving the problem of the rising cost of health care, and another one based on a false assumption—the assumption this time apparently being that the cost can be controlled if health care is considered as a simple trade and if the rules of the marketplace are imposed upon it. This assumption is apparently made in the face of a substantial amount of evidence that the rules of the marketplace are inappropriate and ill-fitted to the problems of health care, and simply do not work in this area. But beyond this, the FTC approach to health will have profound technologic and social consequences if it is pursued to its conclusion. If the apparatus by which the professions perform their special role in their special disciplines is destroyed, the professions themselves will become impotent and unable to meet the needs for special knowledge and skills which are utterly essential for the smooth working of an increasingly complex technological society. So far as is known there has been no thought given to this outcome, nor has there been any discussion of it. In medicine the FTC approach would return quality control of medical education and patient care to the marketplace, which is precisely where it was before 1910, when there were no professional standards or controls on medical education or patient care.

One can only conclude that this is likely to be a significantly retrogressive step in the further evolution of American medicine and of the American dream. But whether retrogressive or not, it is even more disturbing that a step which is likely to have such profound societal consequences should have been decided upon in the relative secrecy of an independent federal agency with no apparent consultation or discussion with anyone concerning the possible consequences of its actions. But be this as it may, what then is the recourse? The dollar costs of opposing actions of the FTC can be

very great and it is already clear that they are beyond the means of many professional organizations who consequently have had no alternative but to capitulate. Perhaps the FTC staff and the commissioners themselves can become better informed of the likely social consequences of dismantling the professions of this nation in today's complex technological world. And perhaps, best of all, this important policy issue can and should be taken to Congress where it should probably have been decided in the first place. It is not yet too late and we urge that this be done soon. This is a civic responsibility in the interest of the citizens of the nation.

—MSMW

## Infectious Mononucleosis

### Self-Limited Lymphoproliferation

MONONUCLEOSIS SYNDROMES comprise a multitude of diseases characterized by the proliferation of abnormal mononuclear cells recognized in the blood. Three common examples, discussed elsewhere in this issue, are: infectious mononucleosis (IM), cytomegalovirus (CMV) mononucleosis and toxoplasmosis. Also included in this group are a number of other illnesses—rubella, adenovirus infection, infectious hepatitis and many other viral disorders. However, of all these diseases infectious mononucleosis has received the most intense clinical and laboratory investigation during the past ten years. These efforts have not been without success, in fact, the Epstein-Barr virus (EBV) has been identified as the likely cause of IM, the disease which Dameshek first called “a self-limiting leukemia.”<sup>1</sup>

In the outstanding review in the Medical Progress section of this issue Fiala and co-workers have exhaustively compared and contrasted classical infectious mononucleosis with the related diseases, cytomegalovirus mononucleosis and toxoplasmosis. Although these three disorders have many common clinical features the authors describe characteristic differences in their clinical courses, epidemiologies and, particularly, laboratory findings. Of these three, only IM is associated with heterophil antibody as well as a large array of other anti-